

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RAUL RODRIGUEZ,

Plaintiff,

vs.

1:22-cv-00032-KK-JMR

KAISER-FRANCIS OIL COMPANY and  
FLOW TESTING, INC.,

Defendants.

**ORDER RULING ON OBJECTIONS TO DEPOSITION DESIGNATIONS AND  
CROSS-DESIGNATIONS FOR (1) MATHIAS BENTLEY, (2) ERIC JONES,  
AND (3) JOSHUA KING**

Before the Court are the parties’ objections to designated and cross-designated deposition testimony of (1) Mathias Bentley, (2) Eric Jones, and (3) Joshua King. (*See* Docs. 287, 299, 307, 314.) The Court issues its rulings on the parties’ objections to each other’s deposition designations for these three witnesses as specified herein.

**I. Mathias Bentley**

Plaintiff designated parts of Mr. Bentley’s deposition for presentation at trial. (*See* Doc. 279, 279-2.) Defendants objected to one part of Mr. Bentley’s testimony and cross-designated additional parts of Mr. Bentley’s deposition testimony. (*See* Doc. 299 at 2.) Plaintiff has not objected to any of Defendants’ cross-designations (*see* Doc. 307), which will, therefore, be admitted. The Court rules on Defendants’ objection to Mr. Bentley’s testimony as follows:

<b>Plaintiff’s Designation</b>	<b>Defendants’ Objection</b>	<b>Court’s Ruling</b>
61:22-64:4 (generally)	Subsequent Remedial Measures	Overruled. Rule 407 “does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as . . . impeachment or –if disputed—proving the

		feasibility of precautionary measures.” Fed. R. Evid. 407
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## **II. Eric Jones**

The parties each designated parts of Mr. Jones’ deposition testimony for presentation at trial. (*See* Docs. 279, 279-6, 284.) Plaintiff additionally cross-designated parts of Mr. Jones’ deposition. (*See* Doc. 288, 288-2.) The Court rules on the parties’ respective objections to each other’s designations as follows:

### Rulings on Defendants’ Objections to Plaintiff’s Designations and Cross-Designations for Mr. Jones (Docs. 299, 314)

<b>Plaintiff’s Designation / Cross-Designation</b>	<b>Defendants’ Objection</b>	<b>Court’s Ruling</b>
32:15-32:19	Foundation (no showing that witness has personal knowledge about valve bars used by all other workers at the location)	Sustained
41:11-41:17	Form (misstates testimony; witness already testified that “seized” is not the right word)	Overruled
47:16	Irrelevant	Sustained
47:17-48:24	Lack of foundation by witness’s own admission	Sustained
56:16-57:10	Relevance (argument between counsel re scope of cross)	Sustained

### Rulings on Plaintiff’s Objections to Defendants’ Designations for Mr. Jones (Doc. 287)

<b>Defendants’ Designation</b>	<b>Plaintiff’s Objection</b>	<b>Court’s Ruling</b>
6:10-7:1	Exceeds scope of deposition	Overruled
7:8-8:2	Exceeds scope of deposition	Overruled
8:21-9:21	Exceeds scope of deposition	Overruled
9:18-9:21	Leading	Overruled
12:8-13:12	Exceeds scope of deposition	Overruled
13:17-19:3	Exceeds scope of deposition	Overruled
14:22-14:25	Hearsay; nonresponsive	Overruled as to 14:22 and 14:23 (“I am not sure if he

		did or not.”) Otherwise sustained.
15:1-15:4	Leading	Sustained in part at to 15:1-2: From “Okay...like” is excluded. Otherwise overruled.
18:8-18:9	Nonresponsive	Overruled
18:9-19:3	Relevance	Overruled
19:2-19:3	Sidebar; no question asked	Sustained
19:17-26:6	Exceeds scope of deposition	Overruled
21:13-21:23	Leading; relevance	Overruled
22:20-22:24	Hearsay; leading	Sustained
25:6-25:16	Hearsay	Sustained
25:24-26:6	Leading; speculation	Sustained
28:9-28:14	Exceeds scope of deposition	Overruled
28:9-28:14	Leading	Overruled
28:20-29:12	Exceeds scope of deposition	Overruled
28:20-29:12	Sidebar and inclusion of objections	Sustained at to 28:21-22, 28:25, 29:1.
27:3-27:4	Sidebar	Sustained
28:20-28:25	Sidebar	Sustained
29:6-29:8	No question	Sustained
40:3-47:8	Exceeds scope of deposition	Overruled
40:3-47:8	Improper edits which includes objections and sidebar	Sustained – remove objections and sidebar
48:25-52:3	Exceeds scope of deposition	Overruled
48:25-52:3	Improper edits which includes objections and sidebar	Sustained – remove objections and sidebar
52:9-56:14	Exceeds scope of deposition	Overruled
52:9-52:11	Sidebar; relevance	Sustained
52:25-53:4	Leading	Overruled
53:22-54:2	Leading; compound; vague and/or ambiguous	Overruled
56:5	Improper edits which includes objections	Sustained – remove objections
57:13-58:8	Exceeds scope of deposition	Overruled
58:4-58:7	Lack of foundation	Sustained

### III. Joshua King

Plaintiff designated parts of Mr. King’s deposition for presentation at trial. (*See* Doc. 279, 279-7.) Defendants objected to one part of Mr. King’s testimony and cross-designated additional

parts of Mr. King's deposition testimony. (*See* Doc. 299 at 3.) Plaintiff has not objected to any of Defendants' cross-designations (*see* Doc. 307), which will, therefore, be admitted. The Court rules on Defendants' objection to Mr. King's testimony as follows:

<b>Plaintiff's Designation</b>	<b>Defendants' Objection</b>	<b>Court's Ruling</b>
26:21-26:24	Lack of foundation	Sustained – however, if the at issue photograph is admitted prior to Plaintiff presenting Mr. King's testimony, the Court will permit the testimony.

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IT IS THEREFORE ORDERED that, as to any testimony to which a party objected and as to which the Court has sustained the objection as indicated above, the parties must remove the excluded testimony before presenting the witness's deposition testimony to the jury.

IT IS SO ORDERED.



KIRTAN KHALSA  
UNITED STATES MAGISTRATE JUDGE  
Presiding by Consent